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Public Affairs

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TAYLOR BRANCH

Playing both sides against the middle

Some people come to Washington burning with a cause, which they champion firelessly until they make a name for themselves. Most don't. In fact, most successful insiders spend their careers popping up on all sides of the big issues with about as much consistency as the lights on a pinball machine. They are the pros, usually lawyers, who have made nonchalance about the ethical content of their work into sacred doctrine. At times, students of the game here are led to believe that there are only a few dozen real insiders: the pros' pros who run everything from all corners. One of the best of these is Mitchell Rogovin, who recently made one of the most spectacular leaps across political borders on record.

"This whole thing is straight out of *Alice in Wonderland*," sighs Mark Raskin. "I mean, have you been to his house? He's still got our books there, and right next to them he's got a picture of William Colby and all kinds of C.I.A. testimony. I can't really express my shock. He's got a woodcut of Martin Buber in his living room, too. It doesn't add up."

Raskin, codefendant with Dr. Spock in the most famous draft-resistance case of the Vietnam era, still smarts over what he regards as the defection of his lawyer to the imperialist team. It was so unexpected. A little over a year ago, Mitch Rogovin was the heavyweight advocate for do-gooders in Washington. He represented the War Resisters' League and the Reporters' Committee for Freedom of the Press. He was still suing Nixon for Common Cause. He had defended his best friend, Neil Sheehan of *The New York Times*, against threatened indictment in the Pentagon Papers case; and he was suing J. Edgar Hoover's G-men for tapping the phones of the Institute for Policy Studies, Washington's best known think tank on the left. Mark Raskin is codirector of I.P.S. Rogovin also had the F.B.I. in court over its practice of snooping through the I.P.S. trash cans for evidence of radicalism. Through it all, Rogovin attended seminars at which Raskin and his colleagues argued that capitalism smothered the earth like kudzu. They told him the government was unscrupulous and repre-

dence kept turning up to bear them out. So Rogovin went and sued the bastards. "I was under the impression," says Raskin, "that here was a person who became in effect a movement lawyer."

In the spring of 1975, Raskin urged Rogovin to become chief counsel to one of the Watergate-style committees impaneled to investigate the C.I.A. The idea made sense, since Rogovin was then pestering the Agency to surrender its dossiers on the scholars at I.P.S. Suddenly, however, Rogovin began telling friends that Colby had asked him to represent the C.I.A. against the investigators. Raskin was dumbfounded by the very notion. It was like Alger Hiss going to work for Nixon.



All hell broke loose behind the scenes. Rogovin's public-interest clients fired him. "There was a lot of trauma," he says. "I suppose I didn't anticipate how strong the opposition would be. The Bach Mai Hospital Fund even fired me." Directors of the fund, which collects money for a hospital in Hanoi that American B-52's bombed to rubble, expressed outrage at Rogovin for taking up with Bill Colby. They sensed a contradiction. In Vietnam, Colby had masterminded the Phoenix program. War critics like Raskin called Phoenix a grisly purge worthy of the Mafia. Colby countered that the Agency had actually been a restraining influence on the Vietnamese but acknowledged some lapses by his men. Rogovin, wounded by the fracas, argued that he could both rebuild the Hanoi hospital and defend Colby. "I felt a little resentment that

ver for a cause," he complains. "Look, I've represented corporate officers charged with bribery. I don't necessarily agree with everything clients say."

The I.P.S. directors met in late-night emergency sessions. It was easy to fire Rogovin, but what about the implications? Had he been a C.I.A. spy all along? What about the personal friendships? Raskin led a troubled delegation to Rogovin's for a conference. "It was a very sad time in my life," he recalls. "I like Mitch. I told him I didn't think he understood what he was doing. I told him the C.I.A. people are professional liars and that they would use him and spit him out. I told Mitch he would be the James St. Clair of foreign policy. I tried to warn him that he would play a very regressive role in American history, and he did."

"Some of what Mark said worried me," Rogovin admits. "I didn't want to be left hanging out there alone so they could dump me over the side of the ship like St. Clair. So I insisted that the firm itself represent the Agency. I wanted a little muscle behind me."

Rogovin is one of the principal tax lawyers for Arnold & Porter, among Washington's most prestigious firms. He asked his partners to take on the C.I.A., which led to a debate almost as heated as the one at I.P.S. "Some of it was ideological," says a member of the firm. "But not much." Arnold & Porter did not earn its reputation by holding moral séances over its clients. There were more practical issues at hand—such as money. The C.I.A. was willing to pay only \$38,000 a year for Rogovin's full-time services, whereas he could bring in five to ten times that much in tax work. "It was incredible," says the lawyer. "Mitch was asking us to do nearly pro bono work for the C.I.A., for God's sake. We were risking a black eye for nothing."

Arnold & Porter's executive committee also wrestled with some sticky ethical questions. Would it violate legal canons for Rogovin to switch to the C.I.A. in light of his preliminary legal actions against the Agency in behalf of I.P.S.? (His detractors point to the fact that he had recommended against including the Agency

It was a close

continue

call, but the committee decided the firm could slide under the tag. That left only one more conflict, a highly emotional one. Arnold & Porter had a consultant by the name of Eric Olson, a psychological trauma expert. Olson's father, it was revealed, had committed suicide after C.I.A. scientists slipped LSD into his Cointreau one night in the early 1950's. All Agency personnel involved in the disastrous experiment, including close friends of the Olson family, conspired to keep it secret for more than twenty years. When the story finally came out, Eric Olson wanted Arnold & Porter to join his attorneys in suing the Agency for ten million dollars in damages. The committee had to choose between Olson and Rogovin, since the firm could not be on opposite sides of C.I.A. representation at the same time. The committee sent Olson elsewhere. Colby got his lawyer. Raskin stayed at I.P.S., scratching his head.

He wouldn't have been so puzzled had he known more about the secret past. Mitch Rogovin had been working with the C.I.A. since shortly after joining the I.R.S. as a young trial lawyer in the late 1950's. He won't say exactly when the Agency recruited him, but he was on board by 1961. At the time, he served as assistant to his cousin, I.R.S. commissioner Mortimer Caplin. "I was fascinated the first time I went out to the new C.I.A. building," he reminisces. "The guy gave me a badge and took me to a door that had a combination safe lock on the outside and three dead bolts on the inside. He noticed how I was gazing at all that stuff and asked me what I thought of the security. So I said, 'Fine. It looks like my mother-in-law's apartment in Manhattan.' He laughed. We got along fine."

Only a handful of people at I.R.S. knew Rogovin was the Agency liaison. He was busy: "The I.R.S. was always running into C.I.A. proprietaries [fronts]. Our auditors would go out to a company and find something like a six-thousand-foot airplane runway in the middle of nowhere. They'd start asking embarrassing questions like what was it for and where did the money come from. So the company people would contact C.I.A., and C.I.A. would contact me and say it was theirs. The auditors would also run into a lot of money being passed overseas, and the Agency guys would call me and say, 'Look, this one-hundred-fifty-thousand-dollar transaction is a wash.'"

Once, in 1964, the public got a quick peek at the cooperation between I.R.S. and C.I.A. Rogovin was testifying in Congress before Representa-

tive Wright Patman and his chief counsel, Harry Olsher. Patman and Olsher despised private foundations, and they pressed Rogovin to explain why one foundation retained its tax exemption even though the I.R.S. had found it guilty of rank profiteering years earlier. Rogovin called them aside and whispered something about a C.I.A. connection that precluded further discussion of that particular case. Unimpressed by the national security incantations, Patman and Olsher revealed the C.I.A. involvement and lectured their witness. "It was a scary show," says Rogovin. "My niece was at the hearing. She was the only one in the audience at the beginning, but the room filled up with TV cameras after Patman blew the Agency stuff."

Although the Patman-Olsher hearing was sensational news for one day, it provided only the barest hint of Rogovin's C.I.A. work. There was hidden Agency money in nearly half the international foundation grants awarded in the early 1960's, which called for a lot of special treatment at the I.R.S. Rogovin also worked on other projects, under the supervision of his contact at C.I.A. When Attorney General Robert Kennedy induced drug companies to donate medical supplies to meet Fidel Castro's ransom price for Bay of Pigs prisoners, the I.R.S. assured the companies they could take a tax write-off for three times the cost of the supplies. Also, according to Rogovin, there was some sixteen million dollars in Agency money buried in the ransom.

A Distinguished Intelligence Medal from the C.I.A. now resides in Rogovin's home, along with the Buber woodcut and the radical tomes from I.P.S. By all accounts, it is well deserved. Rogovin's adversaries on the congressional committees grudgingly admit that his tactical brilliance helped the Agency ward off the first serious threat to its operations. Colby, who has retired, can scarcely keep from gloating over the victory. Rogovin, for his part, seems to have switched again. He speaks with regret about how easy it was to manipulate the investigation and to make the congressmen back off and bow. ("Substance doesn't count for much in this world," he observes.) Now that it's all over, Rogovin is in the odd position of complaining about how badly his opponents lost: "They failed to put before the American public a number of issues about the Agency. I think the committees avoided things that might be close. So far, we don't even have a statute that precludes assassination. . . ." Asked how these attitudes square with his own

efforts to foil the committees, he replies, "Well, I was an advocate. But I still have my own personal views."

The old public-interest lawyer seems to be reappearing in Mitch Rogovin. He says it was always there. All through the investigations, he kept in touch with friends like Seymour Hersh of *The New York Times*, the C.I.A.'s harshest critic in the press. They played tennis. Rogovin complained about Hersh's aggressive line calls. Hersh thought Mitch had a sneaky second serve. Rogovin has also been talking with old friends in the Kennedy wing of the Democratic party, and there are rumors of a high post for him in the next Administration.

There are even efforts under way to reconcile differences with the folks back at I.P.S., who are still hurt and baffled. "I've been out to see him," says Ralph Stavins, one of the senior scholars. "It's a hard thing to figure out. My own view is that Mitch is really aboveboard. I don't think he ever betrayed us to the Agency in those years when we were getting hauled before grand juries. But I think Mitch wanted to assume the conscious risk of doing it. He is a guy who lives off tension. I think he wants the mystery and the risk of betrayal because it eliminates boredom for him. That's what he can't stand. His heart demands the tension."

"There's probably a lot of truth in that," Rogovin agrees. But he winces at the mention of his heart. In April, when the tension of the C.I.A. investigation was ending, he suffered a heart attack. "There was no immediate sharp pain," he says. "But I was very conscious of it because both my parents died of coronaries when I was young. I was too scared to tell anybody what was happening, even myself. After a meeting at the White House, I had to decide where to go. I could either go out to C.I.A., where I didn't have much work to do, or to Arnold & Porter, where I did. I went to the Agency for some reason. I've been thinking about it since. It wasn't like going back to the womb, but I think I needed to be told by someone in authority to go down to the hospital."

Mitch Rogovin has been recuperating, receiving visitors of all political persuasions, wondering whether his zigzag career might have ruined his health. He, too, is amused by the crazy flip-flops in the life of a Washington pro. "You'll never guess what old Harry Olsher is doing now," he laughs. "He's my client. And you know what he's doing? He runs his own foundation! This world is a lot smaller than people think." #

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